

REMARKS

In view of both the amendments presented above and the following discussion, the Applicants submit that none of the claims now pending in the application is obvious under the provisions of 35 USC § 103. Thus, the Applicants believe that all of these claims are now in allowable form.

If, however, the Examiner believes that there are any unresolved issues in any of the claims now pending in the application, the Examiner is urged to telephone Mr. Peter L. Michaelson, Esq. at (732) 530-6671 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Status of pending claims

Claims 106-108 have each been amended. No other claims have been amended; no claims have been canceled.

Rejections under 35 USC § 103

The Examiner has still maintained his prior rejection of claims 3-10, 12-18, 20-25, 27-33, 35, 37-44, 46-52, 54-59, 61-67, 69, 71-78, 80-86, 88-93, 95-102, and 104-108, as they stood prior to this amendment, under the provisions of 35 USC § 103 as being obvious over the teachings in the Judson patent (United States patent 5,737,619 issued on April 7, 1998 to D. H. Judson) taken in view of those in the Capek et al patent (United States patent 6,094,677 issued to P. G. Capek et al on July 25, 2000). Inasmuch as this rejection was simply repeated in the February 24, 2003 action, then, for simplicity, the

Applicants will just address the December 2nd action. With respect to the claims as they now stand, this rejection is respectfully traversed.

The Examiner apparently takes the position that, with respect to what the independent claims recited prior to this amendment, the scheme taught by the Judson '619 patent decouples the advertising content/object content from the "first web page".

In reaching this position, the Examiner discusses his rejection in the context of handling image files. Specifically, he first states that the '619 Judson patent teaches that text or image content could be displayed during wait periods (periods during which a user waits for requested page content to be downloaded, i.e., a so-called "interstitial interval"). With this in mind, the Examiner then comments that "processing of the embedded code communicates a request to a (management) server to download a file located at a server address. ... This file is requested and downloaded". The Examiner then considers the information object to be the rendered visual content of the (image) file, with the content of that file being selected/defined at the management server. The Examiner then opines that the contents of the file, when saved to the server, selects/defines the information object/displayed ad. Given this, the Examiner concludes that "the code that requests the file does not specify or define the content or advertising information object displayed by rendering the file to a user", hence de-coupling the file from the code.

For brevity, the Applicants will dispense with discussing the general teachings of the '619 Judson and '677

Capek et al patents and, for such a discussion, will simply refer the Examiner back to the Applicants' prior amendment filed January 22, 2002 and specifically pages 7-13 and 16-19 thereof.

The Applicants will now focus on the specific teachings of the '619 Judson patent directly pertinent to the Examiner's position. In particular, this patent expressly teaches three different approaches for storing an information object that is to be interstitially displayed:

a) masking it within a web page itself such as by being embedded within HTML "comment" tags (or other tags) from which that object is accessed and subsequently interstitially displayed. In that regard, see, e.g., col. 5, line 33 et seq of this patent which states:

"According to the present invention, an information object is preferably placed within a comment tag of a web page and thus is 'ignored' by the browser in the formatting of the document then being displayed.";

b) embedding the object within a home page of the browser or elsewhere on a client machine from which that object is accessed and subsequently displayed. In that regard, see col. 7, line 15 et seq which states:

"The information object need not be embedded within an existing web page, but rather may be embedded within the home page of the browser or supported elsewhere within the client itself."; or

c) storing the object on a remote information warehouse (electronic repository) from which the object is

subsequently delivered to a web server that, in turn, appends it to the web page which is to be downloaded to the user's browser. The browser, upon receipt of the page, reads and caches the object for interstitial display. See, e.g., FIGs. 10 and 11 and their accompanying discussion at col. 9, line 2 et seq which states in pertinent part:

"The information warehouse then electronically delivers the advertisements to one or more of the web servers 106 at which hypertext documents are supported.

... [I]t will be desirable .. to store the information object in the web server 106 separate from any particular hypertext document so that the object may be downloaded to the client machine (with a hypertext document) by being 'appended' at the distal or 'backend' of the hypertext document that may be used to bring the object down to the client machine.

... This document includes an associated information object, such as an advertising graphic, that will be associated with some user-selectable display graphic (e.g. a link) in the first hypertext document."

What the Examiner must keep squarely in mind is this patent, like many conventional techniques in the art, clearly requires that, regardless of where the object is stored (i.e., embedded within or appended to a web page or in a home page, or locally stored elsewhere on the client machine), the web page (which the Applicants refer to as the "first" or "referring" web page), which will cause that object to be interstitially displayed, must itself contain a tag that references the object. If the object is stored in-line, i.e., residing within the page itself and located immediately after the tag, then the tag implicitly specifies

as such. Alternatively, if the object is stored elsewhere on the page, on a different page (e.g., a home page) or elsewhere on the client machine or even remotely on a server, the tag then must not only specify a name of the file containing that object but an address (either relative, or an absolute in terms of a network URL) at which that file can be found. Otherwise, in the latter case, the browser will simply not know where to look to access a file containing the object, and particularly the object that is to be subsequently and interstitially displayed whenever a user transitions away from that page.

If this tag is viewed as being "embedded code", as the Examiner appears to do, then this tag, *a priori*, would either implicitly specify, in the absence of an address or pointer, that that object data directly follows or, alternatively, explicitly reference a file name for the object, including its address (such as its URL). In that regard, note the last paragraph quoted above from col. 9, line 2 et seq where the address in the link forms the "association" between the object and the web page (document).

In fact, the Examiner concedes as much by stating, with respect to displaying an image referenced through a link in a web page: "The processing of the embedded code communicates a request to a (management) server to download a file located at a server address." (emphasis added) The request contains the address, on a server, of the image file.

This modality is entirely consistent with conventional HTML as it existed as of the earliest effective

filings date (October 1995) of the '619 Judson patent. As evidence of this, the Applicants enclose a copy of pages 103, 117-120 of C. Musciano et al, HTML The Definitive Guide, Second Edition (© 1996, 1997, O'Reilly & Associates, Inc.) (hereinafter simply "the HTML Text") which discuss the <img> tag. This tag is a standard HTML tag.

As indicated in the HTML Text, the <img> tag permits an HTML programmer to reference and insert a graphic image into current textual flow of an HTML document. Of particular interest to the Examiner's view, are the command attributes shown on page 118 of this text. As is clearly evident, these attributes include "src" which, being required, is "the image file's URL, either absolute or relative to the HTML document referencing the image." An example of this attribute is shown at the top of page 119 where it expressly specifies an address of an image file. Essentially the same description of this tag is also provided in pages 175-181 in Laura Lemay, Teach Yourself Web Publishing with HTML 3.2 in a Week -- Third Edition (© 1996, Sams.net Publishing) (a copy of those pages is also enclosed herewith).

Given this widespread knowledge of the <img> command existing as of the earliest effective filing date associated with the '619 Judson patent, it stands to reason that anyone skilled in the art who wished to link an image file to a web page would use this command to do so. In so doing, that person would include this command within the page and situate it, in the flow of page content, where the corresponding image itself is to appear, and, of necessity, include an address of that file within the command.

Therefore, while the embedded code itself, i.e., the <img> tag, for an image file that is not stored in-line, does not contain content for the image itself -- consistent with the Examiner's reasoning, that code most certainly contains an address of that file. The address, which contains the file name, unquestionably specifies the image. Contrary to the Examiner's view, this, in turn, tightly couples the image to the page on through which it is to be rendered.

In contrast, the Applicants' inventive technique, as described on page 22, line 14 et seq of the present specification, relies on embedding an advertising tag (generally "embedded code") within each of a number of different web pages ("referring web pages") stored on one or more remote network web servers. The advertising tag is very compact and contains two components: one component for downloading a script from a specified distribution server, and the other component being a network address of an information management server (e.g., an advertising management server). The advertising code does not contain any reference to the advertisement (generally speaking an "information object") which that code will ultimately cause to be politely downloaded and thereafter interstitially displayed.

During the course of browsing the web, a user may select and download to his(her) client browser a referring web page that happens to contain such a tag. As that web page is downloaded, the browser processes, in particular through a run-time interpretive process, the coding of that page, including the embedded advertising tag itself. If that web page contains the Applicants' inventive tag, then

and only then, as that page is being downloaded and processed by the client browser, will the browser eventually process the embedded tag during interpretation of the page.

Once the tag is processed, the client browser downloads a script from its corresponding distribution server, which, in turn when executed, downloads and instantiates an agent. Once the agent is itself executing under the browser, the agent issues a download request to the information management server, as specified in the advertising tag.

In response to this download request, the information management server -- NOT THE CLIENT or its BROWSER -- selects a given advertisement (more generally an information object) to be rendered at the requesting client browser and then downloads a corresponding AdDescriptor (manifest) file to the client. This selection is made by the server and not the client browser.

The browser, in turn (and through the agent), reads the AdDescriptor file and issues, in succession, a separate request to download each media player file (to the extent it does not then reside on the client computer) and each content (media) file, both as specified in the AdDescriptor file, for that particular advertisement. Once all these files have been "politely" downloaded (i.e., in background during idle time of the network connection to the client browser) from either the management server or a different server, the advertisement is queued for playing and will be played (by the agent) during an ensuing interstitial interval.

As the Examiner can appreciate, when the Applicants' advertising tag is executed during processing of its accompanying referring web page, that execution effectively starts a process in motion which results in: a download request being launched to a remote ad management server; that server then selecting an information object (illustratively an advertisement) for downloading and display; thereafter, files for that object being politely downloaded, from their source locations, to the client browser; and eventually those files being processed by the client computer (specifically the Applicants' agent executing under the browser) so as to interstitially display the object.

The Applicants' inventive tag does not reference the information object at all. No object content is stored in the referring page or appended to it, nor needs to be. Nor is there any need to pre-store any content for that object on the client. Further, the referring web page does not contain the address of that object. Thus, through the present invention, the referring web page and the object remain independent of each other and hence effectively de-coupled from one another.

This stands in stark contrast to the teachings of the '619 Judson patent, which, in light of conventional wisdom at the time regarding HTML programming, tightly couples a referring web page to an object, such as an image, which was to be displayed in that page. The coupling arises not because a tag contained in that page contains image content -- which it does not as the Examiner currently recognizes, but because that tag contains an ADDRESS of the image file. As the Examiner well knows, to ensure that each

file resident within a network computer system can be uniquely accessed by any computer in that system, it is an absolute requirement that every such computer file have a unique address (e.g., through a corresponding URL) on a 1:1 basis. No file can possess multiple addresses, nor can a single address point to multiple files. Therefore, if a tag, such as an <img> tag specifies an address, that address will access one and only one image file on the network (e.g., the Internet). Hence, a web page that contains a command that incorporates such an address, as one of its attributes, is indeed tightly coupled, through the address, to the object -- contrary to the Examiner's view.

By effectively decoupling the object from the referring web page, the Applicants' have devised a very flexible approach that eliminates any need to modify any command or content within a referring web page whenever an advertiser desires to change an object that is to be accessed through that page and then interstitially rendered. A corresponding change is made at an advertising management server rather to each and every referring web page (which may involve a considerable number of such pages).

As to the Capek '677 patent, it specifically teaches the concept of providing, through an insertion manager (20 shown in FIG. 2), an insertion in a stream of requested program material in response to a user, through his(her) client browser, issuing a request for that material. In the context of web pages, a client browser, under instruction of a user, would issue a download request to a remote server to download a desired web page. This request would travel through the insertion manager which, in turn, would select an appropriate insertion and send that

insertion to the client browser. The client would then interstitially display the insertion while program material is being retrieved from remote server 26. This approach does not rely at all on embedding any tag in any web page to access an object, as the object is simply inserted, by an element (the insertion manager) external to the browser, into an information stream it returns to the browser.

If this approach were to be combined with the relevant teachings of the Judson '619 patent, then the resulting teachings would not only NOT yield the present invention, but would teach in a direction farther AWAY from it.

Specifically, the resulting teachings, rather than having each object locally stored within or appended to a specific web page (or located somewhere else locally within the client computer) and accessed for subsequent interstitial display -- as taught by the Judson '619 patent, would mandate that that object be remotely stored and selected by an external insertion manager. This manager would be interposed between the client computer and a remote web page server. Hence, whenever a user then requested a page served by that server, the request would be intercepted by the insertion manager. This manager, in turn and rather than the browser, would select an object and return that object to the client browser for subsequent interstitial display. Note that, as taught by the Capek '677 patent, the issued page request itself and not the execution of any tag in a corresponding web page, would cause the object to be selected and downloaded.

The present invention dispenses with any need to route page requests and ensuing retrieved page content through an intermediate mechanism, such as an insertion manager. Instead, the present invention relies on embedding the inventive tag within a referring web page. The execution of that tag within a referring web page directly causes download of an object for interstitial display -- a page request does not. If a page does not contain such a tag, then, through use of the Applicants' inventive web-based ad distribution methodology, neither that page itself nor any request itself for that page will result in an object being downloaded for interstitial display.

There are simply no teachings in either the Judson '619 or Capek '677 patents directed to use of embedded code (specifically a tag) within a page, which when that code is executed while that page is being processed, downloads an object for interstitial display such that the code is totally decoupled from the object, i.e., neither the page nor the code contains any reference to the object, including either its content or its location.

The present invention, as now claimed, is simply not taught or suggested by the two applied references, either taken singly or in the combination urged by the Examiner.

Consequently, it has remained for the Applicants and only the Applicants to devise their inventive approach.

The Applicants have now amended each of their independent claims to more precisely define their present invention, specifically to recite that neither the embedded

code, more specifically the inventive advertising tag, nor the referring web page references the information object, specifies a location or that object or contains any content for that object. As a result of which and as recited in the Applicants' independent claims, use of the code eliminates a need to store either content for the information object or an address of the object within the referring (first) web page. Consequently, the referring web page and the object remain independent of each other and thus the latter is substantially, if not totally, decoupled from the former.

Independent claim 106 contains appropriate recitations directed to the present invention.

Specifically, this claim recites as follows, with those recitations shown in bolded type:

"A computer readable medium storing a first web page wherein the first web page comprises a plurality of computer readable instructions, **the instructions representing page content and containing embedded code, wherein the code, when executed by a client computer during processing the instructions on the web page, causes the computer to:**

communicate a request to a management server;

as a result of the request, download, from a network server or the management server and while the computer renders the first web page to a user through an output device operative in conjunction with the computer, at least one file which is to be subsequently employed, by the processor, to render an information object, **the information object being selected by the management server; and**

in response to a user-initiated event, detected by the computer, for transitioning from the first web page to

a next successive web page and which signifies a start of a next interstitial interval, suspend further downloading of files and process the one file so as to render the information object through the output device to the user during the interval; and

wherein neither the code nor the first web page references the information object, specifies a location of the object itself or contains any content from the object such that use of the code eliminates a need to store either content for the information object or an address of the object within the first web page thereby substantially decoupling the object from the first web page." (emphasis added)

Nearly identical and parallel distinguishing recitations now appear in the Applicants' other pending independent claims, i.e., method claim 107 and apparatus claim 108.

As such, the Applicants submit that each of their independent claims, namely claims 106, 107 and 108, is not rendered obvious by the teachings in the Judson '619 or Capek et al '677 patents, whether taken singly or in the combination posed by the Examiner.

Accordingly, the Applicants submit that each of their independent claims is patentable under the provisions of 35 USC § 103.

Each of the remaining claims, specifically claims 3-10, 12-18, 20-25, 27-33, 35, 37-44, 46-52, 54-59, 61-67, 69, 71-78, 80-86, 88-93, 95-102 and 104 and 105, depends, either directly or indirectly, from independent claim 106, 107 or 108 and recites further distinguishing features of the present invention. Therefore, the

Applicants submit that each of these dependent claims is patentable over the teachings of these two patents for the same exact reasons set forth above. Hence, the Applicants submit that each of these dependent claims is also patentable under the provisions of 35 USC § 103.

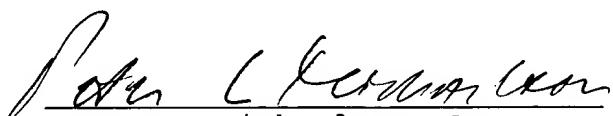
Conclusion

Thus, the Applicants submit that none of the claims, presently in the application, is obvious under the provisions of 35 USC § 103.

Consequently, the Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

Respectfully submitted,

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